

AMENDED IN SENATE APRIL 23, 1998
AMENDED IN SENATE MARCH 31, 1998
AMENDED IN SENATE MARCH 23, 1998

SENATE BILL

No. 1667

Introduced by Senator Burton

February 17, 1998

An act to add Section 637.7 to the Penal Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1667, as amended, Burton. Privacy: electronic tracking device.

Existing law prohibits the invasion of privacy by electronic devices, as specified.

This bill would, in addition, make it a misdemeanor for any person or entity in this state to use an electronic tracking device, as defined, to determine the location or movement of a person. The bill would not apply when the registered owner, *lessor, or lessee* of a vehicle has consented to the use of an electronic tracking device with respect to that vehicle, or to the lawful use of an electronic tracking device by a law enforcement agency. By creating a new crime, this bill would impose a state-mandated local program.

The bill additionally would provide that a violation of these provisions by a person or specified entity licensed as a private investigator would constitute grounds for revocation of the private investigator's license issued to that person or entity.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that
2 the right to privacy is fundamental in a free and civilized
3 society and that the increasing use of electronic
4 surveillance devices is eroding personal liberty. The
5 Legislature declares that electronic tracking of a person's
6 location without that person's knowledge ~~or permission~~
7 violates that person's reasonable expectation of privacy.

8 SEC. 2. Section 637.7 is added to the Penal Code, to
9 read:

10 637.7. (a) No person or entity in this state shall use an
11 electronic tracking device to determine the location or
12 movement of a person.

13 (b) This section shall not apply when the registered
14 owner, *lessor, or lessee* of a vehicle has consented to the
15 use of the electronic tracking device with respect to that
16 vehicle.

17 (c) This section shall not apply to the lawful use of an
18 electronic tracking device by a law enforcement agency.

19 (d) As used in this section, "electronic tracking
20 device" means any device attached to a vehicle or other
21 movable thing that reveals its location or movement by
22 the transmission of electronic signals.

23 (e) A violation of this section is a misdemeanor.

24 (f) A violation of this section by a person, business,
25 firm, company, association, partnership, or corporation
26 licensed as a private investigator under Chapter 11.3
27 (commencing with Section 7512) of Division 3 of the
28 Business and Professions Code shall constitute grounds
29 for revocation of the license issued to that person,

1 business, firm, company, association, partnership, or
2 corporation, pursuant to Article 6 (commencing with
3 Section 7561) of Chapter 11.3 of Division 3 of the Business
4 and Professions Code.

5 SEC. 3. No reimbursement is required by this act
6 pursuant to Section 6 of Article XIII B of the California
7 Constitution because the only costs that may be incurred
8 by a local agency or school district will be incurred
9 because this act creates a new crime or infraction,
10 eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section
12 17556 of the Government Code, or changes the definition
13 of a crime within the meaning of Section 6 of Article
14 XIII B of the California Constitution.

15 Notwithstanding Section 17580 of the Government
16 Code, unless otherwise specified, the provisions of this act
17 shall become operative on the same date that the act
18 takes effect pursuant to the California Constitution.

